

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Richmond Division**

**UNITED STATES OF AMERICA,**

v.

Criminal No. **3:99CR190**

**CORNELIUS D. STUDIFIN,**

Petitioner.

**MEMORANDUM OPINION**

Petitioner, a federal prisoner proceeding with counsel, filed a motion to vacate, set aside, or correct his sentence pursuant to 28 U.S.C. § 2255. It appears that Petitioner has been released from incarceration. Moreover, Petitioner already received a three-year term of supervised release which was the maximum term he could receive without the ACCA enhancement. (*See* Dec. 13, 1999 Tr. 136.) Thus, it appears that Petitioner's § 2255 motion is moot.

By Memorandum Order entered on April 8, 2019, the Court directed Petitioner, within twenty (20) days of the date of entry thereof, to show good cause why the § 2255 motion should not be dismissed as moot. The Court further explained that if Petitioner failed to respond, the Court would dismiss the action.

More than twenty (20) days have elapsed and Petitioner has not responded to the April 8, 2019 Memorandum Order. Accordingly, the action will be DISMISSED WITHOUT PREJUDICE.

An appeal may not be taken from the final order in a § 2255 proceeding unless a judge issues a certificate of appealability ("COA"). 28 U.S.C. § 2253(c)(1)(B). A COA will not issue unless a prisoner makes "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). This requirement is satisfied only when "reasonable jurists could debate whether

(or, for that matter, agree that) the petition should have been resolved in a different manner or that the issues presented were 'adequate to deserve encouragement to proceed further.'" *Slack v. McDaniel*, 529 U.S. 473, 484 (2000) (quoting *Barefoot v. Estelle*, 463 U.S. 880, 893 & n.4 (1983)). Studifin has not satisfied this standard. Accordingly, a certificate of appealability will be DENIED.

An appropriate Order shall issue.

Date: May 1, 2019  
Richmond, Virginia

 /s/  
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M. Hannah Lauck  
United States District Judge